

Agenda

1. Tenant Rights under the Residential Tenants Act
2. Tenant Rights under the Human Rights Code
3. Scenario questions (small group)
4. Discussion of scenarios (large group)

5.

V



What is NOT covered by the Residential Tenancies Act?

- Person required to share a bathroom or kitchen with owner or owner's family
- Co-op members***
- Some room-mates (circumstance specific)
- Some temporary or seasonal housing
- Rehab/therapeutic services for less than 1 year

There are other exemptions as well.
See Section 5 of the *RTA*.



Private vs. Social Housing

- Both private and social housing is governed by the *Residential Tenancies Act (RTA)*
- However, social housing is exempted from some provisions of the *RTA*
- **AND** most social housing is governed by the *Housing Services Act* as well

Tenants Rights: Myths, Legends and the Law



- ❑ I can't get evicted in the winter.
- ❑ If I signed a lease that says I accept the place "as is" the landlord does not have to make repairs.
- ❑ I am not allowed to have children or pets in my unit.
- ❑ My landlord can enter my apartment at any time.
- ❑ My landlord must provide heat in the winter and air conditioning in the summer.

Myths, Legends and the Law

- ❑ The landlord can charge me extra if I have guests or room mates.
- ❑ I can hold back rent if the landlord doesn't make repairs.
- ❑ I can move out as long as I give 60 days notice.
- ❑ My landlord can charge as much rent as s/he wants.

When can a tenant apply to the board?



- ❑ Harassment, discrimination, repairs (etc)
- ❑ Must apply within 1 year of problem(s) occurring
- ❑ Or within 1 year of problem being

Eviction - Procedure

- Eviction only for reasons set out in the *RTA*
- Must follow procedure in *RTA*
- Only Sheriff can legally evict a tenant - landlords cannot change locks



Reasons for Eviction

- non-payment of rent
- disturbing landlord or other tenants
- impairing safety
- damage
- illegal act
- misrepresentation of income (subsidized housing)
- overcrowding
- landlord's or purchaser's own use

Notice of Termination

- Landlord must give Notice of Termination (in most circumstances)
- Notice of Termination sets out a termination date
- For non-payment of rent, the termination date should be at least 14 days from the date of the notice
- Tenant does NOT have to leave by the termination date in the Notice of



What can tenants do?

- Tenant can usually cancel the Notice of Termination by:

- Paying all arrears owing under the notice within 14 days
- Stopping behaviour outlined in the Notice
- Fixing damage or paying for it to be fixed within 7 days

- But some notices CANNOT be cancelled...

- Illegal act
- Substantial interference where owner lives in complex and complex has 3 or less units
- Willful and undue damage or use of the unit in a way which might lead to extreme damage



Eviction Application

- Landlord may apply at the Landlord and Tenant Board for an eviction hearing
- The Landlord and Tenant Board will send out Notices of Hearing
- **EVERY tenant has the right to a hearing**
- **Tenants that miss a hearing for legitimate reasons can apply for a review**



The Hearing Day

Tenant may ask for mediation on the hearing day

- If landlord agrees, there will be a mediation
- Tenant can try to work out a payment plan or other solutions with landlord in mediation
- Mediated agreement can include a termination of the tenancy



Remember: tenant duty counsel may be able to assist on the hearing day.

Tenant's options

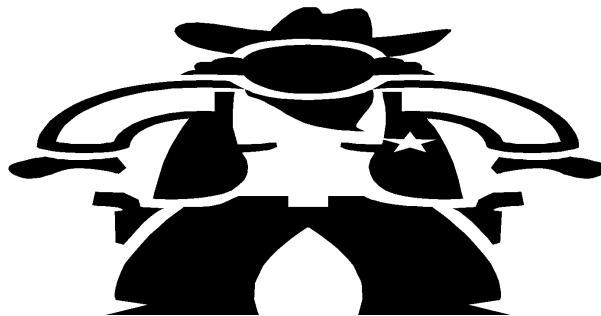
- Pay all rent owing and application fee on or before hearing day;
OR
- Prove rent already paid
 - Receipts, bank records, cheques
- Prove tenant did not do what landlord claims
 - Witnesses, documents, photographs
- Ask not to be evicted – the Board can order a payment plan, delay or refuse eviction or make any other condition in an order that would be fair under the circumstances
- If there are repair and maintenance issues the tenant can raise them – offset rent owing?
- The Board is required to review all the circumstances and consider whether or not to grant the eviction
- Sometimes this will mean that the landlord's application for eviction will be refused

After the Hearing

- Tenant may stop an eviction order for arrears by paying all the money owing before the termination date in the Order

OR

- If tenant misses that date, can stop the eviction by paying all money owed plus costs to the landlord any time before the Sheriff comes. This provision can only be used once in any tenancy.



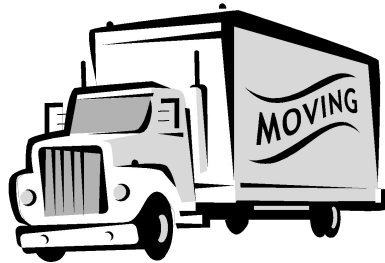
After the Hearing

- If unhappy with a decision made by the Board the tenant has 30 days to:



- REVIEW: ask Board to review the decision internally
 - Serious error
- APPEAL: go to a higher court
 - Error in law only

After an Eviction



- Have 72 hours to claim possessions
- Landlord must provide tenant access between 8:00 a.m. and 8:00 p.m.

NATIONAL HOUSING DAY



The People's Assembly on the Right to Housing

"While some people make theatre, we are all theatre." – Augusto Boal

SEE THE PLAY. EXPLORE SOLUTIONS. PROPOSE IDEAS FOR NEW POLICIES. VOTE!

**FRIDAY
NOVEMBER
20th**

MARCH

11:00am

Meet outside the Superior Court
of Justice, 361 University Ave.

PEOPLE'S ASSEMBLY

12:30pm – 3:30pm

Church of the Holy Trinity, 10 Trinity
Square, behind Eaton Centre

Light hot lunch served at 12:00pm



For more information and to register:

www.acto.ca



Helpful Websites

- ❑ www.acto.ca for tenant tip sheets
- ❑ www.cleo.ca for pamphlets on tenant rights and responsibilities
- ❑ www.hrlsc.ca for information on human rights
- ❑ www.equalityrights.org for information and tip sheets on housing and human rights
- ❑ www.itb.gov.on.ca for notices, applications and information on the RTA
- ❑ www.legalaid.on.ca find your community legal clinic: free legal advice for low



“Sorry, it’s rented.”

CODE AND RENTAL HOUSING

John Fraser, Human Rights Legal Support
Centre

The Human Rights Code

- Quasi-constitutional
- “Primacy” over other legislation – **including the Residential Tenancies Act, the Building Code and the Housing Services Act**
 - E.g. family threatened with eviction over reasonable children’s noise
- Cannot contract out of rights

What is Discrimination?

- Differential treatment, deny a benefit, exclude, impose obligations, disadvantage, etc. related to a protected characteristic
- **Intent is not necessary**
- Discriminatory factor may be one of many factors

Grounds of Discrimination

- Race, colour
- Ancestry
- Place of origin
- Citizenship
- Ethnic origin
- Creed (religion)
- Receipt of social assistance (housing only)
- Gender identity and expression
- Sexual orientation
- Marital status
- Family status
- Record of offenses (employment only, must have been pardoned)
- Age
- Disability
- Sex (includes being pregnant, sexual harassment and gender identity)

Constructive Discrimination

- Seemingly neutral policies, practices, rules that have a discriminatory effect
- Same treatment \neq equality
- E.g. "Parking in this apartment building is first-come first-served and you'll have to wait like everyone else."
(What if the tenant uses a wheelchair?)

Constructive Discrimination

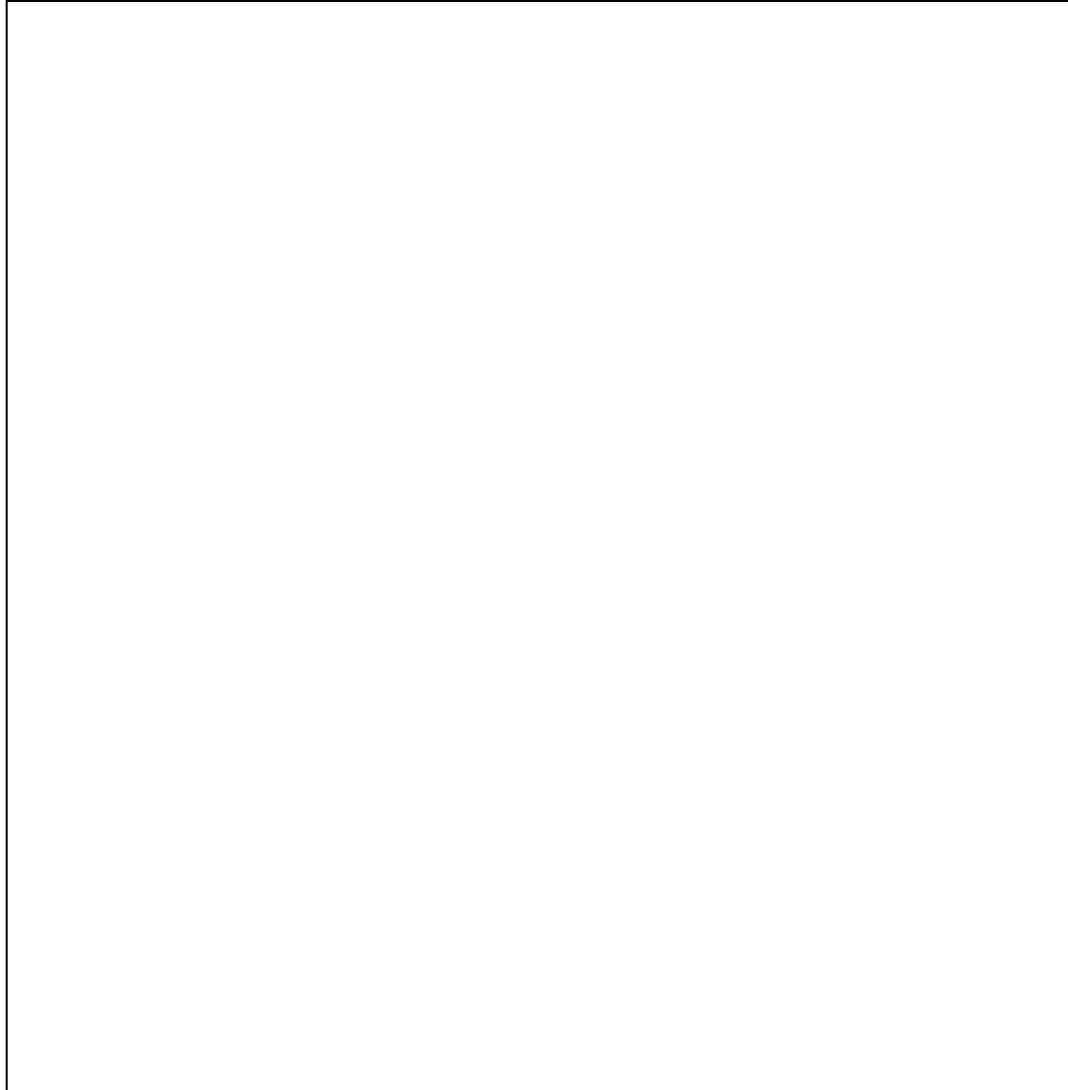
- A couple who recently arrived in Canada applies for a one bedroom apartment
- The property manager requires **all** applicants to provide previous landlord references and have a positive Canadian credit history
- Discriminatory *effect*



Harassment

- The *Code* prohibits harassment from a landlord, agent of the landlord or another occupant of the same building based on a prohibited ground
- Landlords have an obligation to take action to stop discriminatory harassment
- E.g. Every time Amina's young child cries, the neighbour beside her bangs on the wall. He also "cranks" his stereo in retaliation.

Rental Ads



Income and Employment Rules

- Landlords are allowed to verify that a prospective tenant has sufficient funds to cover the rent
- BUT – they should not screen tenants using minimum income criteria or rent to income rules
- They will have to be flexible when someone who is new to Canada must rely on savings to cover the rent
- Housing providers should not have application requirements related to employment history

Rent Deposits

News / Investigations

Exploitive rent demands 'a norm' for newcomers

Landlords often insist on illegal advance payments of up to a year's rent from immigrants, who may not know their rights.



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Number and Sex of Children

- “Adult Only” apartments are illegal
- Occupancy rules in buildings should only relate to legitimate health and safety standards
- Children of the opposite sex can share a bedroom

Co-signors and Guarantors

- Requiring a co-signor or guarantor may be acceptable if the applicant has poor credit or a negative rental history
- They should not be required because someone is new to Canada, young, receiving social assistance, etc.

Residential Tenancy Agreement (Ontario)

THIS AGREEMENT made the ____ day of _____, 20__

BETWEEN:

(Hereafter referred to as "the Tenant(s)")

AND

(Hereafter referred to as "the Landlord")

(Address)

1. The rental premises are [] a single family dwelling, [] a unit in a duplex, triplex, or fourplex,
or [] an apartment in an apartment building, located at _____

(Street address)

2. The term of this agreement shall be as follows:

This shall be a

[] week-to-week tenancy which shall begin on _____, 20__

[] month-to-month tenancy which shall begin on _____, 20__

[] fixed term tenancy which shall begin on _____ and end on _____, 20__

3. The rent shall be \$ _____ [] per week [] per month, and shall be payable in advance on or before the _____ day of each [] week [] month. The first [] week's [] month's rent shall be payable on or before _____, 20__

4. The following person is authorized to act on behalf of the Landlord and is specifically authorized to accept notices of the Tenant's complaints and to accept any service of legal process or notice. (Complete if different from Landlord.)

(Name)

Social Insurance Number

- ❑ Landlords often require a SIN in order to conduct a credit check
- ❑ Temporary residents who are not Canadian citizens or permanent residents can be identified by "9" on SIN

Disability and the Duty to Accommodate

- Structures, rules, policies or practices may have to be changed to ensure that persons with disabilities are able to fully enjoy equal benefit, treatment, rights and access to their housing
- Costs typically covered by landlord
- Requirement is “reasonable” accommodation, not “perfect” accommodation
- Limit: “Undue Hardship”

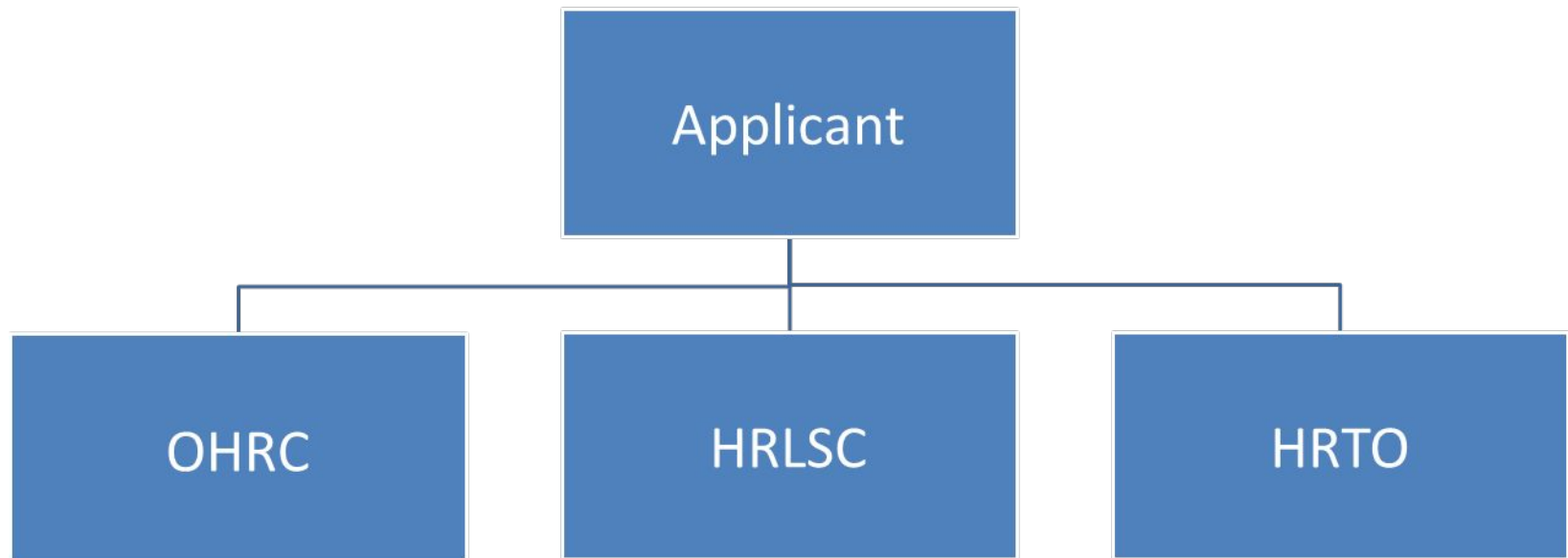
Challenging Discrimination

- Write everything down
- If possible, get a witness
- Call the Centre for Equality Rights in Accommodation (CERA): 1-800-263-1139 ext. 1
- Call the Human Rights Legal Support Centre: 1-866-625-5179

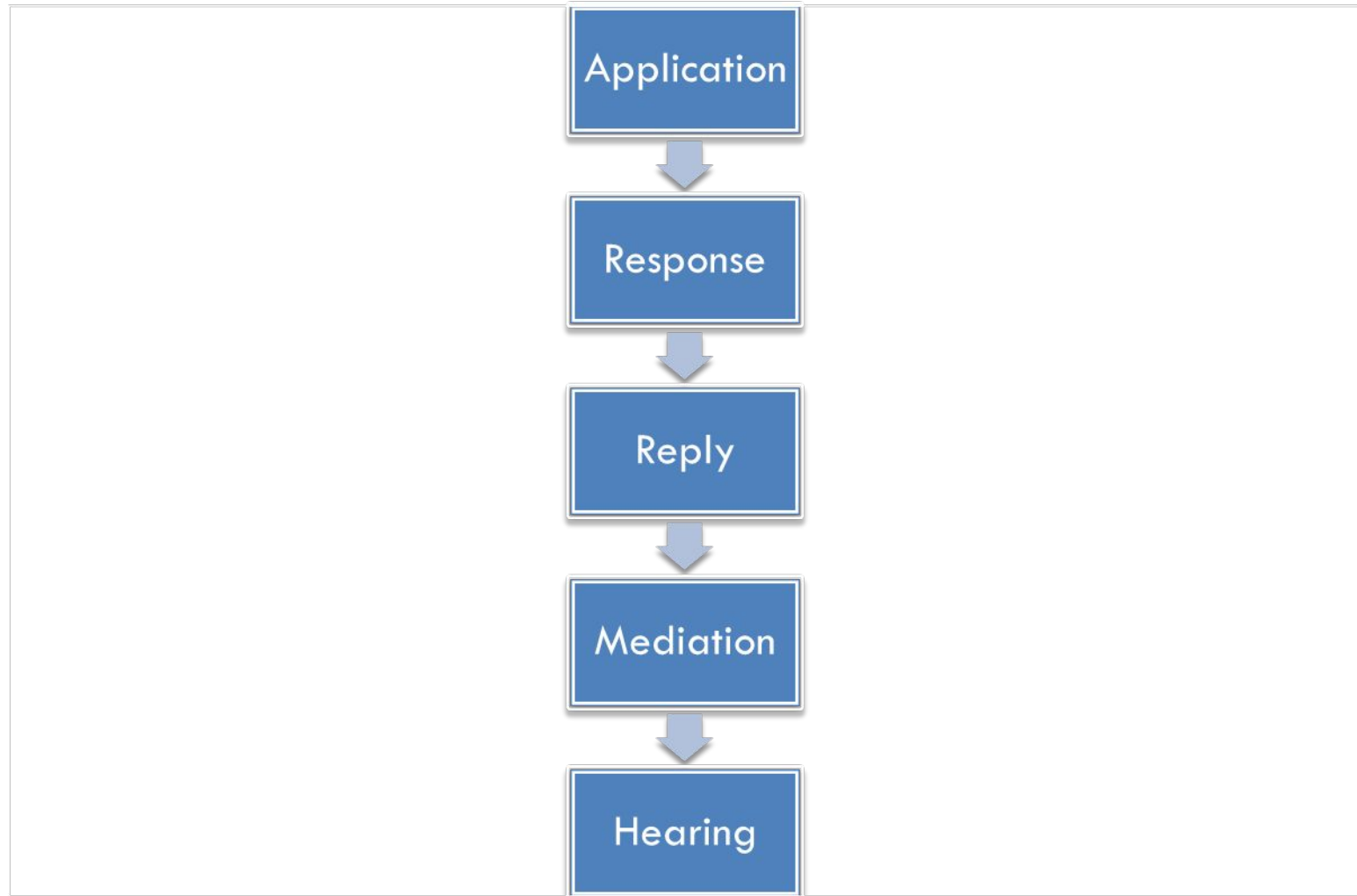
The Human Rights Legal Support Centre

- ❑ The Centre's services are not income tested.
- ❑ Legal assistance to everyone who requests service including:
 - ❑ Early intervention services
 - ❑ Assistance in completing and filing an application
 - ❑ In-depth advice from lawyer before mediation
 - ❑ In-depth advice from lawyer before a hearing.
- ❑ Legal representation at mediation and hearing based on individual's needs, merits of case and our capacity.
- ❑ Services provided in over 140 languages.

Ontario's Human Rights System



The Human Rights Process



The Human Rights Process

News / GTA

Landlord to pay \$10,000 for denying teen apartment

The Ontario Human Rights Tribunal ruled Carolyn Goodman and Havcare Investments Inc. discriminated against a Crown ward seeking housing.



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Thank You!

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- Subscribe to our mailing list from the front page of our web site
- Follow-us on twitter @HRLegalHelp



Scenario 1

- Juan has called many landlords for apartments but they are always taken. Finally he asks a friend with a Canadian accent to call. Suddenly they are available. When he goes to see one the landlord asks him for Canadian landlord references. When he tells her he doesn't have any she demands one year of rent in advance. Juan pays. What should Juan do?

Scenario 2

- Juan's apartment has many repair and maintenance issues. There are cockroaches in the kitchen and mould in the bathroom. There isn't enough heat. Juan tells the superintendent but he responds saying that Juan signed a lease to take the apartment "as is" and the landlord does not need to do anything. What should Juan do?

Scenario 3

- Juan has been living at the apartment for just over a year. He is 2 months in arrears because he had to send money home for a family emergency. The landlord has filed for eviction based on the arrears. There are many ongoing repair and maintenance issues in the apartment. He's told the superintendent but the super keeps putting him off and saying that he will fix it "in time". What should Juan do?

Scenario 4

- Juan's teenage son develops some mental health issues. He gets up in the middle of the night and begins banging on the floor and screaming and disturbing the tenants below. The tenants have already complained to Juan but now they say they've told the landlord. The super starts calling his son "loonie tunes." The landlord files an application for eviction. What should Juan do?